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CONNOLLY BOVE LODGE & HUTZ, L.L.P.
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OFFICE OF PETITIONS

In re Application of :
Neu et al. :
Application No. 10/517,722 :
Filed: December 10, 2004 :
Attorney Docket No. 00143-00244-US :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 13, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was not timely filed. Accordingly, the date of abandonment of this application is March 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,540.00; and (3) a proper statement of unintentional delay.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1050.00, three month extension of time fee submitted with the petition on June 25, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1616 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

A handwritten signature in black ink, appearing to read "Liana Walsh". The signature is fluid and cursive, with the first name "Liana" being more prominent than the last name "Walsh".

Liana Walsh
Petitions Examiner
Office of Petitions